

EXHIBIT 10

Exxon Service Station (4594 E. Tulare) and

Beacon-ARCO #615 (1625 Chestnut Ave.)

- Deposition of Dan Martin, pgs. 22-24, 26, 32, 40-44, 48, 50-55, 58-59 (Mar. 23, 2011)

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-oOo-

In re: Methyl Tertiary Butyl
Ether ("MTBE") Products
Liability Litigation

Master File No.
1:00-1898

This Document Relates To:

City of Fresno
v. Chevron U.S.A. Inc., et al.,
Case No. 04 Civ. 4973

Case No.
MDL 1358(SAS)

DEPOSITION OF DAN MARTIN

March 23, 2011 at 12:00 p.m.

Before: ERIC L. JOHNSON
RPR, CSR #9771

Taken at:
Fresno, California

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<p>1 recognize that. The first one is on Chestnut Avenue 2 according to this list. 3 MR. MASSEY: Q. Okay. There's -- 4 A. Oh -- 5 Q. -- one that's not aligned with the rest of the 6 list. 7 A. Okay. 8 Yes. We -- we owned that station. 9 Q. Okay. 3645 East Olive Avenue? 10 A. Yes. 11 Q. Okay. Do you recall what time frame you owned 12 that station? 13 A. Sometime in '85 or '86, I believe. 14 Q. Okay. And as you recall, there was never any 15 gas sold at that station; is that correct? 16 A. That station was converted to a repair shop. 17 To my knowledge, it never bought any gasoline. Never 18 distributed any gasoline there. Sold -- they never sold 19 any gasoline. 20 Q. Okay. And did you distribute ARCO gasoline to 21 the second station on the list, which is listed as 22 2397 Chestnut Avenue, and that's at Chestnut and Church? 23 MR. FINSTEN: Objection; assumes facts; lack of 24 foundation; vague as to "deliver gasoline." Leading. 25 THE WITNESS: Chestnut and Church? I don't</p>	<p>1 THE WITNESS: Yes, we owned that station. 2 MR. MASSEY: Q. Approximately what time period 3 did you own that station? 4 MR. FINSTEN: Objection; calls for speculation. 5 THE WITNESS: Sometime in the late '80's, I 6 believe. 7 MR. MASSEY: Q. And do you still own it now? 8 A. We still own it. 9 Q. So you started owning it in the late '80's? 10 A. Well, sometime in the '80's, we built that 11 station. Now, there's other stations on that 12 intersection. I presume that you are talking about the 13 northwest corner of Chestnut and McKinley. 14 Q. The address we have is 1625 North Chestnut. 15 A. That's -- yeah, I don't know if that was our 16 street address, but that is one -- we owned a station at 17 that corner, yes. 18 Q. Okay. And is that station an ARCO-branded 19 station? 20 A. Yes. 21 Q. And throughout the time period that you owned 22 it, it has sold ARCO gasoline? 23 A. Yes. 24 Q. Exclusively ARCO gasoline? 25 A. Yes.</p>
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<p>1 recognize that address at all -- 2 MR. MASSEY: Okay. 3 THE WITNESS: -- for a service station. 4 MR. MASSEY: Q. How about 4591 East Belmont 5 Avenue? Which is at Belmont and Maple. 6 MR. FINSTEN: Objection; assumes facts. 7 THE WITNESS: Yes, that was one of our 8 stations. 9 MR. MASSEY: Q. Okay. And -- 10 A. Let me correct that. That -- I am thinking of 11 Tulare and Maple. 12 MR. FINSTEN: This is why I object to all of 13 this. 14 THE WITNESS: Belmont and Maple, I -- I think 15 was a Beacon station, I believe. 16 MR. MASSEY: Q. So you are not certain whether 17 you supplied ARCO gasoline to that station? 18 A. No, I don't think so. 19 Q. Are you certain whether you owned that station 20 at any time? 21 A. We didn't own it, to my knowledge. 22 Q. How about 1625 North Chestnut Avenue, which is 23 Chestnut and McKinley? 24 MR. FINSTEN: Objection; assumes facts not in 25 evidence, leading the witness.</p>	<p>1 MR. FINSTEN: Objection to all of this as 2 leading. 3 MR. MASSEY: Q. And -- 4 MR. FINSTEN: Since you met with the witness 5 beforehand, you should not be asking leading questions. 6 MR. MASSEY: Let's go off the record. 7 THE VIDEOGRAPHER: Going off the record at 8 12:20 p.m. 9 (Discussion held off the record) 10 THE VIDEOGRAPHER: Back on the record at 11 12:21 p.m. 12 MR. MASSEY: Q. And for the ARCO station at 13 the corner of Chestnut and McKinley that you own, prior 14 to your ownership, which is approximately in the late 15 '80's, did Martin Oil supply ARCO gasoline to that 16 station? 17 MR. FINSTEN: Objection; compound, leading, 18 assumes facts not in evidence, and calls for 19 speculation. 20 THE WITNESS: 1625 North Chestnut is our ARCO 21 station and it still is. We didn't supply the prior 22 station that was on that corner. I -- I don't even know 23 what brand it was. 24 MR. MASSEY: Q. Okay. How about 3767 South 25 Golden State Boulevard, which is at Golden State</p>

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<p>1 Boulevard and Chestnut?</p> <p>2 A. No, that's not -- was not our customer.</p> <p>3 Q. How about 30 Divisadero Street, which is at the</p> <p>4 corner of Divisadero and North Thome?</p> <p>5 MR. FINSTEN: Objection; assumes facts not in</p> <p>6 evidence.</p> <p>7 THE WITNESS: I am not familiar with that</p> <p>8 address at all.</p> <p>9 MR. MASSEY: Q. How about 3996 North Parkway</p> <p>10 Drive, which is Parkway and Ashlan?</p> <p>11 MR. FINSTEN: Objection; assumes facts not in</p> <p>12 evidence.</p> <p>13 THE WITNESS: That's not our station, no.</p> <p>14 MR. MASSEY: Q. Okay. Did you ever supply</p> <p>15 ARCO gasoline to that station?</p> <p>16 A. No.</p> <p>17 Q. All right. And the same question for the prior</p> <p>18 one, 30 Divisadero, did you ever supply --</p> <p>19 A. No --</p> <p>20 Q. -- gasoline?</p> <p>21 A. -- never.</p> <p>22 Q. How about 5785 North First, which is at the</p> <p>23 corner of First and Bullard?</p> <p>24 A. No.</p> <p>25 MR. FINSTEN: Objection; assumes facts not in</p>	<p>1 evidence; leading the witness.</p> <p>2 THE WITNESS: Yes, we did.</p> <p>3 MR. MASSEY: Q. How about 4205 East Butler,</p> <p>4 which is Butler and Cedar?</p> <p>5 A. That was our --</p> <p>6 MR. FINSTEN: Objection; assumes facts not in</p> <p>7 evidence.</p> <p>8 THE WITNESS: That was a station branded ARCO</p> <p>9 which we did not own but we supplied gasoline to.</p> <p>10 MR. MASSEY: Q. Okay. And what time frame did</p> <p>11 you supply ARCO gasoline to that station?</p> <p>12 MR. FINSTEN: Objection; assumes facts not in</p> <p>13 evidence, leading.</p> <p>14 THE WITNESS: 1984, I believe, and -- and</p> <p>15 through the most part of '85.</p> <p>16 MR. MASSEY: Q. And when did you begin</p> <p>17 supplying ARCO gasoline to that station?</p> <p>18 MR. FINSTEN: Objection; assumes facts not in</p> <p>19 evidence, leading.</p> <p>20 THE WITNESS: I believe it was 1983, '84.</p> <p>21 MR. MASSEY: Q. Okay. And that station stayed</p> <p>22 as an ARCO-branded station after you --</p> <p>23 A. As far as --</p> <p>24 Q. -- sold --</p> <p>25 A. -- I know --</p>
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<p>1 evidence.</p> <p>2 MR. MASSEY: Q. How about 4569 East Florence,</p> <p>3 which is Florence and Maple?</p> <p>4 MR. FINSTEN: Objection; assumes facts not in</p> <p>5 evidence.</p> <p>6 THE WITNESS: I am not familiar with that</p> <p>7 location either.</p> <p>8 MR. MASSEY: Q. Okay. How about 1703 West</p> <p>9 Olive, which is on Olive just west of the 99 freeway?</p> <p>10 A. No, we did not.</p> <p>11 Q. How about 4594 East Tulare, which is at Tulare</p> <p>12 and Maple?</p> <p>13 A. That -- yes, that was a station we built and</p> <p>14 branded ARCO.</p> <p>15 Q. Okay. And approximately how long did you</p> <p>16 operate that station? When did you stop operating it?</p> <p>17 MR. FINSTEN: Objection; calls for speculation.</p> <p>18 THE WITNESS: When did we start operating, did</p> <p>19 you say, that one?</p> <p>20 MR. MASSEY: Q. When did you stop operating</p> <p>21 it?</p> <p>22 A. Oh. In -- sometime in 1985.</p> <p>23 Q. Okay. And did you supply ARCO gasoline to that</p> <p>24 station up until that time?</p> <p>25 MR. FINSTEN: Objection; assumes facts not in</p>	<p>1 Q. -- sold it?</p> <p>2 A. -- we -- we never owned it, we -- it was just a</p> <p>3 customer.</p> <p>4 Q. And as far as you know, after '84 and '85, that</p> <p>5 station stayed ARCO branded?</p> <p>6 MR. FINSTEN: Objection; assumes facts, leading</p> <p>7 the witness.</p> <p>8 THE WITNESS: Yeah, I am not sure what --</p> <p>9 after '85, I don't know what happened to it.</p> <p>10 MR. MASSEY: Q. Okay. Do you know whether it</p> <p>11 is branded with any brand of gasoline today?</p> <p>12 MR. FINSTEN: Objection; calls for speculation.</p> <p>13 THE WITNESS: Yeah, I am -- I am not sure what</p> <p>14 it is. I haven't seen it in several years.</p> <p>15 MR. MASSEY: Q. Okay. How about 4090 South</p> <p>16 Chestnut, which is Chestnut and Cartwright?</p> <p>17 MR. FINSTEN: Objection; assumes facts not in</p> <p>18 evidence.</p> <p>19 THE WITNESS: I am not familiar with that</p> <p>20 location at all.</p> <p>21 MR. MASSEY: Q. Okay. How about 2394 South</p> <p>22 Elm, which is Elm and Church?</p> <p>23 MR. FINSTEN: Objection; assumes facts not in</p> <p>24 evidence.</p> <p>25 THE WITNESS: Yes, we owned that and that was a</p>

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<p>1 branded ARCO.</p> <p>2 MR. MASSEY: Q. And when did you stop owning</p> <p>3 it?</p> <p>4 A. I believe in 1985, we gave it up.</p> <p>5 Q. Okay. And did it stay as an ARCO-branded</p> <p>6 station after you sold it?</p> <p>7 MR. FINSTEN: Objection; lack of personal</p> <p>8 knowledge, assumes facts, calls for speculation.</p> <p>9 THE WITNESS: Yeah, I am not sure if it stayed</p> <p>10 branded or not. We -- we gave up ownership of it.</p> <p>11 MR. MASSEY: Q. How about 2809 South Chestnut,</p> <p>12 which is Chestnut and Annadale?</p> <p>13 MR. FINSTEN: Objection; assumes facts not in</p> <p>14 evidence.</p> <p>15 THE WITNESS: 2809 South Chestnut? Chestnut</p> <p>16 and Annadale, I am not familiar with that station.</p> <p>17 MR. MASSEY: Q. How about 1014 East Bullard,</p> <p>18 which is Bullard and First?</p> <p>19 MR. FINSTEN: Objection; assumes facts not in</p> <p>20 evidence.</p> <p>21 THE WITNESS: I am not sure on that -- that was</p> <p>22 not ours, so --</p> <p>23 MR. MASSEY: Q. How about 3217 East Lorena,</p> <p>24 which is Lorena and Parallel?</p> <p>25 MR. FINSTEN: Objection; assumes facts not in</p>	<p>1 evidence.</p> <p>2 THE WITNESS: I don't think that is a service</p> <p>3 station, that address, or ever was.</p> <p>4 MR. MASSEY: Q. How about 2740 North Van Ness,</p> <p>5 which is Van Ness and Princeton?</p> <p>6 MR. FINSTEN: Objection; assumes facts not in</p> <p>7 evidence.</p> <p>8 THE WITNESS: I believe that was a Chevron.</p> <p>9 Still is, I believe.</p> <p>10 MR. MASSEY: Q. Did you ever supply gasoline</p> <p>11 to that station?</p> <p>12 A. No, never supplied gasoline.</p> <p>13 Q. And how do you know it was a Chevron or is a</p> <p>14 Chevron?</p> <p>15 A. Well, it was kind of a historical gas station</p> <p>16 in Fresno. It goes back to the '20's, and still there,</p> <p>17 still being operated, I believe, by the original owner.</p> <p>18 Q. And you have driven by it and seen the Chevron</p> <p>19 sign over the years?</p> <p>20 A. Yes, over the years, yes; mm-hmm.</p> <p>21 Q. And how about the last one on our list 22 --</p> <p>22 225 North H, which is H and Arroyo?</p> <p>23 A. I am not familiar with that address, no.</p> <p>24 Q. Okay. So let me review. 1625 North Chestnut</p> <p>25 is an ARCO station that you owned since the late '80's;</p>
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<p>1 evidence.</p> <p>2 THE WITNESS: I am not familiar with that</p> <p>3 location either.</p> <p>4 MR. MASSEY: Q. How about 5756 North First --</p> <p>5 MR. FINSTEN: Objection --</p> <p>6 MR. MASSEY: -- which is First and Bullard.</p> <p>7 MR. FINSTEN: Objection; assumes facts not in</p> <p>8 evidence.</p> <p>9 THE WITNESS: I am not familiar with that</p> <p>10 station.</p> <p>11 MR. MASSEY: Q. How about 1605 North Cedar,</p> <p>12 which is Cedar and McKinley?</p> <p>13 MR. FINSTEN: Objection; assumes facts not in</p> <p>14 evidence.</p> <p>15 THE WITNESS: Not familiar with that location</p> <p>16 either.</p> <p>17 MR. MASSEY: Q. How about 101 North Roosevelt,</p> <p>18 which is Roosevelt and H?</p> <p>19 MR. FINSTEN: Objection; assumes facts not in</p> <p>20 evidence.</p> <p>21 THE WITNESS: Again, that's not -- I am not</p> <p>22 familiar with that.</p> <p>23 MR. MASSEY: Q. How about 2139 South Elm,</p> <p>24 which is Elm and California?</p> <p>25 MR. FINSTEN: Objection; assumes facts not in</p>	<p>1 is that correct?</p> <p>2 MR. FINSTEN: Objection; leading the witness;</p> <p>3 mischaracterizes testimony.</p> <p>4 THE WITNESS: That's at Chestnut and McKinley?</p> <p>5 MR. MASSEY: Correct.</p> <p>6 THE WITNESS: Yes. We still own it; mm-hmm.</p> <p>7 MR. MASSEY: Q. And 4594 East Tulare, which is</p> <p>8 Tulare and Maple, that is a station that you owned and</p> <p>9 that was branded ARCO?</p> <p>10 MR. FINSTEN: Same objections.</p> <p>11 THE WITNESS: We owned it -- we built it and</p> <p>12 then sold it, I believe, in 1984 or '85.</p> <p>13 MR. MASSEY: Q. And 4205 East Butler was an</p> <p>14 ARCO station that you owned at one time; is that</p> <p>15 correct?</p> <p>16 MR. FINSTEN: Objection; assumes facts --</p> <p>17 THE WITNESS: No, we never owned --</p> <p>18 MR. FINSTEN: -- mischaracterizes past</p> <p>19 testimony.</p> <p>20 THE WITNESS: We supplied gasoline there, and</p> <p>21 sometime in -- in the '80's for a short time, then it</p> <p>22 was supplied, as I remember, by another distributor of</p> <p>23 some kind. Not ARCO. Or it could have been ARCO, could</p> <p>24 have been Beacon. I don't know what it was.</p> <p>25 MR. MASSEY: Q. Okay. And when you are saying</p>

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<p>1 MR. FINSTEN: Again, no more Merced.</p> <p>2 MR. MASSEY: You have made your objection,</p> <p>3 Counsel.</p> <p>4 MR. FINSTEN: Yeah. Well, the counsel in the</p> <p>5 case that aren't here to object don't appreciate this.</p> <p>6 This is unethical behavior.</p> <p>7 I am going to ask the court reporter to mark</p> <p>8 the transcript every time counsel utters the word</p> <p>9 "Merced."</p> <p>10 MR. MASSEY: Let's go off the record.</p> <p>11 THE VIDEOGRAPHER: Going off the record at</p> <p>12 12:38 p.m.</p> <p>13 (Discussion held off the record)</p> <p>14 THE VIDEOGRAPHER: Back on the record at</p> <p>15 12:40 p.m.</p> <p>16 MR. MASSEY: Q. Okay. What's next on your</p> <p>17 list?</p> <p>18 A. 4514 West Shaw Avenue, Fresno.</p> <p>19 MR. PATTON: I am going to make one objection.</p> <p>20 This is off of the designated issues of this, and so it</p> <p>21 did not provide counsel with an opportunity to prepare</p> <p>22 for stations that were identified that are not on the</p> <p>23 list.</p> <p>24 MR. MASSEY: And I will just note for the</p> <p>25 record that this is a deposition of Mr. Martin as an</p>	<p>1 Miller, Axline & Sawyer to notice a deposition in one</p> <p>2 case and ask questions about another case where counsel</p> <p>3 in the other case have not been appraised of the</p> <p>4 deposition. It is completely inappropriate, and I -- I</p> <p>5 would imagine it is a violation of the ethical rules.</p> <p>6 If counsel continues to do so, he is on notice</p> <p>7 that the defense group in Merced, I am sure, will move</p> <p>8 for sanctions.</p> <p>9 So continue if you will, but this is not</p> <p>10 ethical.</p> <p>11 (Portion of the record stricken by</p> <p>12 stipulation of counsel)</p> <p>13 MR. MASSEY: Q. What's next on your list?</p> <p>14 A. Well, the list I have been going -- referring</p> <p>15 to here is a list that is leased to Valero at this</p> <p>16 point.</p> <p>17 Now, there's other stations that we own that</p> <p>18 are leased to Valero. I don't have that -- or owned at</p> <p>19 one time and leased to Valero.</p> <p>20 Q. This is just a list of stations that you</p> <p>21 currently own; is that correct?</p> <p>22 A. Actually, it is a partial list that we</p> <p>23 currently own.</p> <p>24 Q. Okay. But it is your understanding that the</p> <p>25 stations on that list are stations that are currently</p>
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<p>1 individual, not a PMQ, so the topics are superfluous.</p> <p>2 Q. And you still own that station?</p> <p>3 A. Yes.</p> <p>4 Q. And is it an ARCO-branded station?</p> <p>5 A. Yes.</p> <p>6 Q. And how long has it been an ARCO-branded</p> <p>7 station?</p> <p>8 A. Oh, since we built it. That was built about</p> <p>9 1984, I believe.</p> <p>10 Q. What's next on your list?</p> <p>11 A. Well, the -- this -- you want to talk about</p> <p>12 Merced?</p> <p>13 Q. Yep.</p> <p>14 A. 19 --</p> <p>15 MR. FINSTEN: Off the record.</p> <p>16 MR. MASSEY: Let's go off the record.</p> <p>17 THE VIDEOGRAPHER: Going off record at</p> <p>18 12:41 p.m.</p> <p>19 (Discussion held off the record)</p> <p>20 THE VIDEOGRAPHER: Back on the record at</p> <p>21 12:42 p.m.</p> <p>22 MR. FINSTEN: I have one brief statement and</p> <p>23 then if counsel wants to continue questioning about</p> <p>24 Merced, he does so at his own risk.</p> <p>25 But this is absolutely unethical behavior by</p>	<p>1 owned by Martin Oil?</p> <p>2 A. Either were or have been sold since this list</p> <p>3 was made.</p> <p>4 Q. The ones that you just read off from that list</p> <p>5 that we just discussed, are those all of the stations</p> <p>6 that, as you understand it, are currently owned by</p> <p>7 Martin Oil?</p> <p>8 A. No, not all of them are currently owned by</p> <p>9 Martin Oil.</p> <p>10 Q. Okay. Which ones are the ones we talked about,</p> <p>11 from that list or not?</p> <p>12 A. That are currently owned by Martin Oil are</p> <p>13 1216 Clovis; 1975 East Childs; 1625 North Chestnut;</p> <p>14 4001 North Marks; 1500 West Whitesbridge, Kerman; and</p> <p>15 4514 West Shaw.</p> <p>16 Q. Are there any that are not -- that you haven't</p> <p>17 read off that are on that list in Fresno?</p> <p>18 A. Not currently owned by Martin Oil, no.</p> <p>19 Q. Okay. Are there any others that are on that</p> <p>20 list that are in Fresno that we haven't talked about</p> <p>21 that were owned sometime in the past by Martin Oil?</p> <p>22 A. They are not on this list. There's several</p> <p>23 that were owned by Martin Oil and then sold at some</p> <p>24 point.</p> <p>25 Q. Do you recall the addresses of the -- or the</p>

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<p>1 cross streets of those?</p> <p>2 A. First and Gettysburg, Fresno. I think that's</p> <p>3 the only one in Fresno that we sold. There's some in</p> <p>4 other cities.</p> <p>5 MR. MASSEY: Okay. Let's proceed on and we</p> <p>6 will clarify as best we can what you know about the</p> <p>7 stations that we have talked about so far.</p> <p>8 I am going to go ahead and mark as Exhibit 2 a</p> <p>9 purchase agreement between Beacon Oil Company and Martin</p> <p>10 Oil, dated November 29th, 1984.</p> <p>11 THE WITNESS: Okay.</p> <p>12 MR. MASSEY: Let's go off the record.</p> <p>13 THE VIDEOGRAPHER: Going off the record at</p> <p>14 12:47 p.m.</p> <p>15 (Discussion held off the record)</p> <p>16 (Deposition Exhibit 2A-2B marked</p> <p>17 for identification)</p> <p>18 THE VIDEOGRAPHER: Back on the record at</p> <p>19 12:55 p.m.</p> <p>20 MR. MASSEY: Okay. We have marked as</p> <p>21 Exhibit 2A a document titled "Purchase Agreement" dated</p> <p>22 November 29th 1984. And this document has five pages to</p> <p>23 it.</p> <p>24 And we have marked as Exhibit 2B a document</p> <p>25 that says "ARCO Petroleum Products Company" at the top.</p>	<p>1 the agreement, but --</p> <p>2 Q. Do you see paragraph one of the purchase</p> <p>3 agreement?</p> <p>4 A. I -- I believe it is, yes. Yeah.</p> <p>5 Q. Okay. And paragraph one references the, quote,</p> <p>6 branded distributor dash gasoline agreement, unquote,</p> <p>7 which is the same name as what we have marked as</p> <p>8 Exhibit 2B; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. So at this point in time, which was</p> <p>11 November of 1984, you sold your rights to distribute</p> <p>12 ARCO gasoline to Beacon Oil Company; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Was anything else, other than Martin</p> <p>15 Oil's rights, interests, and obligations under the</p> <p>16 distributor agreement with ARCO, sold as part of this</p> <p>17 transaction?</p> <p>18 A. Repeat that again.</p> <p>19 Q. Did Martin Oil sell anything in addition to its</p> <p>20 rights under this distributor agreement?</p> <p>21 A. We sold Beacon Oil Company our trucks and our</p> <p>22 gas agreement. I believe that's all.</p> <p>23 Q. Okay. When you say trucks, were they tanker</p> <p>24 trucks that deliver gasoline?</p> <p>25 A. Tanker trucks, yes.</p>
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<p>1 And it is called a branded distributor, dash, gasoline</p> <p>2 agreement. This document is six pages, and does not</p> <p>3 have a date on the first page and does not have</p> <p>4 signatures on the -- on the last page.</p> <p>5 Q. What we have marked as Exhibit 2A, the purchase</p> <p>6 agreement, is this the agreement by which Martin Oil</p> <p>7 sold its rights, obligations, and interests, under the</p> <p>8 franchise agreement that we have marked as 2B, to Beacon</p> <p>9 Oil?</p> <p>10 MR. PATTON: Objection; lacks foundation.</p> <p>11 THE WITNESS: Yes, it is.</p> <p>12 MR. MASSEY: Q. Okay. And is that your</p> <p>13 signature on the signature page of the purchase</p> <p>14 agreement that we have marked as Exhibit 2A?</p> <p>15 A. Yes.</p> <p>16 Q. All right. And is that your handwriting</p> <p>17 indicating that your home address is listed for Martin</p> <p>18 Oil?</p> <p>19 A. That is my home address, right, at the time.</p> <p>20 Q. Okay. And is this a true and correct copy of</p> <p>21 this purchase agreement?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. What we have marked as 2B, is this</p> <p>24 Exhibit A to the purchase agreement?</p> <p>25 A. You know, I am not sure if that's Exhibit A to</p>	<p>1 Q. Approximately how many of them were there, if</p> <p>2 you recall?</p> <p>3 A. I think there was three that they bought.</p> <p>4 Q. Do you recall at this point in 1984</p> <p>5 approximately how many gas stations Martin Oil owned?</p> <p>6 A. In Fresno, probably ten, thereabouts.</p> <p>7 Q. Okay. And have we talked about all of those</p> <p>8 already?</p> <p>9 A. Yes.</p> <p>10 Q. And they were ARCO-branded stations selling</p> <p>11 ARCO gasoline at the time of this agreement?</p> <p>12 A. We didn't sell them the stations, we leased</p> <p>13 them the stations, yeah.</p> <p>14 Q. Were they ARCO branded at the time of this</p> <p>15 agreement?</p> <p>16 MR. FINSTEN: Objection; calls for speculation,</p> <p>17 lacks foundation, leading.</p> <p>18 THE WITNESS: We just leased the ARCO-branded</p> <p>19 stations to Beacon.</p> <p>20 MR. MASSEY: Q. My question is slightly</p> <p>21 different. I am just trying to set down the basic fact</p> <p>22 that at the time of this sale of the trucks and the</p> <p>23 distributor agreement to Beacon, Martin Oil owned a</p> <p>24 number of stations. My question is whether those</p> <p>25 stations were branded ARCO at that time?</p>

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<p>1 MR. FINSTEN: Same objections.</p> <p>2 THE WITNESS: I think all of the stations we</p> <p>3 supplied gas to were branded ARCO.</p> <p>4 MR. MASSEY: Q. Including the approximately</p> <p>5 ten that Martin Oil owned at this time?</p> <p>6 A. Yes.</p> <p>7 Q. And then after the sale to Beacon, you leased</p> <p>8 those stations to Beacon so that Beacon could operate</p> <p>9 them?</p> <p>10 A. Let's see. There was a station or two they</p> <p>11 didn't want, and they didn't lease them, the ones they</p> <p>12 didn't want. They were in conflict maybe with a Beacon</p> <p>13 station or weren't up to standards that they wanted.</p> <p>14 They wanted a certain image.</p> <p>15 Q. Okay. And if we can go back to Exhibit 1</p> <p>16 briefly, and if you could point out to me which on this</p> <p>17 list were owned by Martin Oil at the time of the</p> <p>18 agreement, then we can establish clearly what that</p> <p>19 universe of stations was.</p> <p>20 A. What list do I have that shows all of the</p> <p>21 stations we owned?</p> <p>22 Q. The list that we gave you. So it may not be</p> <p>23 all of the stations that you owned.</p> <p>24 A. Oh.</p> <p>25 MR. FINSTEN: Wait a minute. Are you referring</p>	<p>1 A. Again, I -- I need to have the cross street.</p> <p>2 This list don't show the cross street.</p> <p>3 Q. Okay. Let me see if I can go back to the notes</p> <p>4 that I just made.</p> <p>5 MR. FINSTEN: All right. I am going to object</p> <p>6 again. All of this calls for speculation and is going</p> <p>7 to require, again, you to make representations that are,</p> <p>8 you know, assuming facts that are not in evidence. You</p> <p>9 know, the witness has told you he doesn't recognize the</p> <p>10 addresses, you can tell him whatever cross street you</p> <p>11 want. That doesn't change the fact that it is not in</p> <p>12 evidence, and the whole line of questioning is</p> <p>13 speculative.</p> <p>14 So go through them again, because I know you</p> <p>15 will.</p> <p>16 MR. MASSEY: Q. Chestnut and McKinley.</p> <p>17 A. That's one of our stations branded ARCO.</p> <p>18 Q. Right.</p> <p>19 MR. FINSTEN: What's the address, for those of</p> <p>20 us that don't know your cross street, Justin?</p> <p>21 MR. MASSEY: It is 1625 North Chestnut.</p> <p>22 Q. And at the time, in 1984, of this agreement</p> <p>23 with Beacon, was that a Martin Oil-owned station?</p> <p>24 A. Yes.</p> <p>25 Q. How about First and Gettysburg in Fresno? That</p>
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<p>1 to something other than the deposition notice?</p> <p>2 MR. MASSEY: No. I am referring to the</p> <p>3 deposition notice.</p> <p>4 MS. JONES-ROY: Hi, this is Whitney Jones-Roy</p> <p>5 joining the deposition. I understand that there's been</p> <p>6 questioning about Merced, even though this is a Fresno</p> <p>7 case, and I just want to state my objection on the</p> <p>8 record now that it is inappropriate.</p> <p>9 MR. MASSEY: Go ahead.</p> <p>10 MS. JONES-ROY: No, that's my objection. It is</p> <p>11 inappropriate. This is a City of Fresno case, and to</p> <p>12 the extent you are questioning about the City of Merced</p> <p>13 case, it is inappropriate. We were not given notice of</p> <p>14 this.</p> <p>15 MR. FINSTEN: He doesn't seem to care.</p> <p>16 MS. JONES-ROY: I understand.</p> <p>17 Justin, you can do whatever you want. I am</p> <p>18 just saying it is wholly inappropriate.</p> <p>19 MR. MASSEY: Okay. Your objection is noted.</p> <p>20 Q. This is the list right here.</p> <p>21 A. Okay. Repeat your question again now.</p> <p>22 Q. At the time of the sale of the distributor</p> <p>23 agreement to Beacon in 1984, can you recall which of</p> <p>24 those stations on that list, if any, were owned by</p> <p>25 Martin Oil?</p>	<p>1 one is not on our list but that was one that you</p> <p>2 indicated was owned --</p> <p>3 A. That was owned by Martin Oil and branded ARCO.</p> <p>4 Q. In 1984?</p> <p>5 A. Yes.</p> <p>6 Q. How about 4594 East Tulare, which is Tulare and</p> <p>7 Maple?</p> <p>8 MR. FINSTEN: Same objection.</p> <p>9 THE WITNESS: That is branded ARCO and was</p> <p>10 owned by Martin Oil, yes.</p> <p>11 MR. MASSEY: Q. And 2394 South Elm, which was</p> <p>12 Elm and Church.</p> <p>13 A. That was owned by Martin Oil and branded ARCO,</p> <p>14 yes.</p> <p>15 Q. And 4001 North Marks Avenue.</p> <p>16 A. Yes. That's branded ARCO, owned by Martin Oil.</p> <p>17 Not the land, just the improvements.</p> <p>18 Q. And that was owned by Martin Oil in 1984?</p> <p>19 A. Yes.</p> <p>20 Q. And 4514 West Shaw Avenue in Fresno?</p> <p>21 A. That's owned by Martin Oil. I -- at the time</p> <p>22 of this agreement, I don't think that station was</p> <p>23 completed. It wasn't in operation in the latter part</p> <p>24 of '84.</p> <p>25 Q. Do you recall whether it was under construction</p>

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<p>1 at that time?</p> <p>2 A. Under construction, I believe.</p> <p>3 Q. Okay. And do you recall if any of the stations</p> <p>4 on the list that we have just now talked about were ones</p> <p>5 that Beacon did not lease from Martin Oil starting in</p> <p>6 1984?</p> <p>7 MR. PATTON: Objection; calls for speculation.</p> <p>8 THE WITNESS: I believe you have covered them</p> <p>9 all, as far as I can tell. 1216 Clovis.</p> <p>10 MR. MASSEY: Q. We'll leave those aside for</p> <p>11 now.</p> <p>12 A. Okay.</p> <p>13 Q. Just the ones from Fresno.</p> <p>14 A. Chestnut, Marks, Shaw. I think that covers it.</p> <p>15 Q. Okay. And my question was if you can recall</p> <p>16 which ones of those Beacon Oil did not lease following</p> <p>17 the purchase agreement in 1984?</p> <p>18 MR. PATTON: Objection; lacks foundation, calls</p> <p>19 for speculation.</p> <p>20 THE WITNESS: I don't -- the best I can recall,</p> <p>21 they leased everything that we had that we operated and</p> <p>22 that were all branded ARCO. I think Beacon leased all</p> <p>23 of them.</p> <p>24 MR. MASSEY: Okay. Exhibit 3 is a fax on</p> <p>25 Martin Oil letterhead. This has the Bates number</p>	<p>1 A. Yeah.</p> <p>2 Q. Which are all in Fresno.</p> <p>3 Is the distributor that you are thinking of</p> <p>4 that you think owned the station at this point in time</p> <p>5 El Monte Gas Company?</p> <p>6 MR. FINSTEN: Objection; leading, calls for</p> <p>7 speculation.</p> <p>8 MR. MASSEY: You may answer.</p> <p>9 THE WITNESS: Yeah, 4594 East Tulare, we sold</p> <p>10 that to El Monte Gas Company, and I believe it was</p> <p>11 branded ARCO and still branded ARCO, and I believe</p> <p>12 Beacon -- I am going to take that back. We leased it to</p> <p>13 Beacon, they gave it up, and then we sold it to El Monte</p> <p>14 Gas Company and they operated for a while and then they</p> <p>15 sold it to somebody else. I don't know who. I think it</p> <p>16 is still there on the property and I think it is still</p> <p>17 branded ARCO, as far as I know. Anything after '85 or</p> <p>18 during '85, I -- I just can't remember because we sold</p> <p>19 the business. We were out of business.</p> <p>20 MR. MASSEY: Let's see if some documents will</p> <p>21 help us understand the timeline for that particular</p> <p>22 station, 4594 East Tulare. Exhibit 4 is an</p> <p>23 environmental health application which is dated</p> <p>24 March 28th, '92. FCDEH-FRESNO 026 -- 020620 through</p> <p>25 020622.</p>
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<p>1 FCDEH-FRESNO, page 8274.</p> <p>2 (Deposition Exhibit 3 marked for</p> <p>3 identification)</p> <p>4 MR. MASSEY: Q. Go ahead and take a look at</p> <p>5 that, see if that refreshes your recollection.</p> <p>6 A. Yeah, that looks right.</p> <p>7 Q. And for the record, this fax is dated</p> <p>8 June 22nd, 1994.</p> <p>9 A. Yes.</p> <p>10 Q. Okay. So as of this point in time, it was your</p> <p>11 understanding that the station at 4594 East Tulare in</p> <p>12 Fresno was leased to Beacon?</p> <p>13 A. Before of '94, it was, yes.</p> <p>14 Q. And as of this time in '94 when this fax was</p> <p>15 sent, was it also leased to Beacon?</p> <p>16 A. In '94, I don't think we owned that anymore.</p> <p>17 We sold that to another distributor, and I don't know</p> <p>18 what -- he -- I think he operated it for himself for a</p> <p>19 while and then he sold it to somebody.</p> <p>20 Q. So you don't recall this being a station owned</p> <p>21 by Martin Oil and leased to Beacon in 1994?</p> <p>22 A. Well, our out-of-town stations, I -- we leased</p> <p>23 those to Beacon. But they are Merced, Oakhurst, Kerman,</p> <p>24 were all leased to Beacon in '84.</p> <p>25 Q. I am focused on the last four on this exhibit.</p>	<p>1 (Deposition Exhibit 4 marked for</p> <p>2 identification)</p> <p>3 MR. MASSEY: Q. Have you seen this document</p> <p>4 before?</p> <p>5 A. No.</p> <p>6 Q. Okay. Do you see down about three-quarters of</p> <p>7 the way, there is a line titled "Comments," and then it</p> <p>8 says, "See notice of change," dated 3/12/85?</p> <p>9 A. Yes. Mm-hmm.</p> <p>10 Q. Okay. And it lists the business owner about a</p> <p>11 quarter of the way down the page as Ultramar, Inc.</p> <p>12 Do you see that?</p> <p>13 A. Where do you see that? Over here?</p> <p>14 Q. (Indicates)</p> <p>15 A. Oh, yes, that sounds about right.</p> <p>16 Q. Okay. The notice of change from March 12th,</p> <p>17 '85, that's referenced here, does that refresh your</p> <p>18 recollection that this is one of the stations that</p> <p>19 Martin Oil leased to Beacon Oil starting on that date?</p> <p>20 MR. PATTON: Objection; calls for speculation,</p> <p>21 lacks foundation.</p> <p>22 THE WITNESS: That sounds right. I think, to</p> <p>23 clarify that, we built the station and we operated it,</p> <p>24 and then we leased it to Beacon and they had some</p> <p>25 problems with robbery, so they said, "We don't want to</p>

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<p>1 lease it anymore." 2 I said, "Well, give it back and we will sell 3 it." 4 So then I sold it to El Monte Gas Company and 5 they continued to operate it, and then they sold it to 6 somebody else. 7 MR. MASSEY: Okay. Let's look at Exhibit 5, 8 which is an underground storage tank permit application, 9 RWQCB-FRESNO 17131 to 17140. 10 (Deposition Exhibit 5 marked for 11 identification) 12 MR. MASSEY: And this document is dated 13 11/12/92, or November 12th, 1992. 14 Q. Have you seen this document before? 15 A. No. 16 Q. Okay. Do you see where it indicates the 17 property owner is Martin Oil Company of Fresno? 18 A. Yes. 19 Q. Okay. And written in above it, it says "Tank 20 property owner information." 21 Do you see that? 22 A. Yes. Mm-hmm. 23 Q. And then in the next section down, it says 24 "Tank owner information," but owner is crossed out and 25 it says "Tank operator information," it lists Ultramar.</p>	<p>1 MR. MASSEY: Let me see if I can piece together 2 the timeline. 3 But before I do that, let me mark as Exhibit 6 4 a letter on Beacon letterhead without a date. And the 5 page number is FCDEH-FRESNO, page 21049. 6 (Deposition Exhibit 6 marked for 7 identification) 8 THE WITNESS: Okay. 9 MR. MASSEY: Q. Okay. Did you get a letter 10 like this announcing that Beacon Oil had changed its 11 name to Ultramar, Inc.? 12 A. I -- I don't -- I don't remember whether we did 13 or not. 14 Q. Okay. Did Beacon change its name over the 15 years? 16 A. Yes. 17 Q. Okay. What are -- what is the other name it 18 changed to, or other names if there has been more than 19 one? 20 A. I believe they either merged or sold to Diamond 21 Shamrock, and then at some point later sold to Valero. 22 Q. And did Beacon also change its name to 23 Ultramar, as far as you know? 24 MR. PATTON: Objection; calls for speculation. 25 THE WITNESS: I -- I don't know whether they --</p>
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<p>1 Do you see that? 2 A. Yes. Mm-hmm. 3 Q. All right. Does this refresh your recollection 4 that Martin Oil, as of November 1992, owned the property 5 and the underground storage tanks and that Ultramar or 6 Beacon was operating the station? 7 MR. PATTON: Objection; compound, calls for 8 speculation, lacks foundation. 9 MR. FINSTEN: Leading. 10 MR. MASSEY: You may answer. 11 THE WITNESS: After -- I believe in '83 or '84, 12 we were out of that station, and Beacon, I believe, 13 continued to supply the gas to it but the owner was 14 El Monte Gas Company. 15 MR. MASSEY: Q. Was there a period of time 16 after 1984 where Martin Oil Company owned the property 17 and the tanks and -- 18 A. Well, we owned it and -- 19 Q. -- Beacon operated it? 20 A. -- we sold it on a contract of sale to El Monte 21 Gas, and they operated it. And as long as they kept 22 their payments up, we still owned it until they had it 23 paid off. I -- I really don't know what happened to it 24 after '84 because we weren't involved in the gasoline 25 business, so --</p>	<p>1 I don't know that we ever dealt with Ultramar. We dealt 2 with Beacon and then through the years to Valero. I 3 don't remember the dates. I -- I just don't know. As 4 long as we got the rent, we didn't care what the name 5 was. 6 MR. MASSEY: Q. So over the years, the company 7 you dealt with who leased the stations from you went by 8 the name Beacon, sometimes Diamond Shamrock, sometimes 9 Valero, but as far as you knew, it was all the same 10 company? 11 MR. FINSTEN: Objection; misstates prior 12 testimony, leading, compound. 13 THE WITNESS: Yeah, as far as -- we dealt with 14 Beacon, local Beacon people at the refinery in Hanford, 15 that's who we dealt with. Until Valero come in and then 16 we started dealing with Valero out of Texas, as far as 17 the rent goes or station modifications. 18 If Valero wanted to upgrade a station and -- 19 that we owned, we said: "Do whatever you want. As long 20 as you pay the rent, we could care less what you do." 21 MR. MASSEY: Q. Was it your understanding that 22 Valero was the same company that had prior -- previously 23 called itself Beacon? 24 MR. PATTON: Objection; asked and answered; 25 calls for speculation.</p>

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<p>1 THE WITNESS: Yeah, they -- I understood that 2 they bought Beacon Oil Company -- or bought Diamond 3 Shamrock and bought Ultramar. 4 (Deposition Exhibit 7 marked for 5 identification) 6 MR. MASSEY: Okay. Let's look at Exhibit 7, 7 which is an underground storage tank permit application, 8 RWQCB-FRESNO 17087 through 17096. 9 THE WITNESS: Okay. 10 MR. MASSEY: Q. This document is dated 11 June 2 -- 26, 1996; is that correct? 12 A. Yes. 13 Q. All right. And it indicates that as of this 14 point in time, El Monte Gas was the property owner? 15 A. Yes. 16 Q. And the tank owner? 17 A. Yes. 18 Q. Okay. Does this refresh your recollection as 19 to when, between 1992, when Martin Oil was listed as the 20 tank owner and property owner, and 1996, Martin Oil sold 21 the station to El Monte? 22 A. Yes. I don't know what date we sold it to El 23 Monte, but -- 24 Q. But it was sometime between 1992 and 1996, as 25 you recall?</p>	<p>1 Q. Okay. And it indicates on the letter that we 2 have marked as Exhibit 8 that Dan Martin with Martin Oil 3 Company has expressed that some urgency exists. 4 Do you recall the circumstances of what's 5 reported here in May of 1995? 6 A. We might have still held the deed on the land 7 at that time, because we had sold it to El Monte Gas. 8 And if they changed the tanks or had a problem, why it 9 would have been up to them to contact the geologist, 10 which I guess was Fugro, to do the soil assessment. 11 And I -- I don't have any recollection of that 12 or any records, nor did we get involved with that other 13 than the guy that was buying it from us, El Monte Gas, 14 if he contaminated it, we wanted to get it cleaned up 15 before we -- or afraid he might give it back to us. 16 So I would have said, "Yeah, get it done." 17 Q. Okay. Looking back at Exhibit 7, the station 18 is identified as the Tulare Street ARCO. 19 Is that consistent with your recollection that 20 it was ARCO branded in 1996? 21 A. I believe it was. I believe it is still 22 branded ARCO. 23 MR. FINSTEN: I am going to object again. Lack 24 of -- I am sorry. Leading the witness, assumes facts 25 not in evidence, and lack of foundation.</p>
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<p>1 A. Well, I don't think we -- in '92, I believe 2 El Monte Gas owned -- or was buying it from us. 3 Q. The only thing I have to go on is Exhibit 5, 4 which indicates as of November of '92, Martin Oil owned 5 the property or the tanks or both. 6 A. That could be right. But I am not sure -- 7 MR. FINSTEN: Objection; calls for speculation, 8 lack of personal knowledge. 9 THE WITNESS: They got the wrong address there. 10 I don't know who that is, 1404 L Street. 11 MR. MASSEY: Q. The address for who? 12 A. Says Martin Oil at 1404 L Street. That was 13 never our address. 14 Q. Okay. 15 (Deposition Exhibit 8 marked 16 for identification) 17 MR. MASSEY: Exhibit 8 is a document on Fugro 18 West letterhead, May 8th, 1995, FCDEH-FRESNO 21064 19 through 21073. If you could take a look at that. 20 Q. Have you seen this letter before? 21 A. I -- I don't recollect seeing it, no. 22 Q. Okay. Do you recall any sampling done at the 23 station for soil prior to 1996? 24 A. No, I wouldn't have any records of that. 25 Whoever owned it would have done that at that time.</p>	<p>1 (Deposition Exhibit 9 marked for 2 identification) 3 MR. MASSEY: Let me show you Exhibit 9, which 4 is page FCDEH-FRESNO 21157. 5 Q. Do you recognize the names of the property 6 owners and tank owners listed here? 7 A. Well, it gots (sic) Narinder Singh. I believe 8 he's the man that El Monte Gas sold it to or maybe it 9 was Kerpel Singh Sandhu. 10 Q. Okay. 11 A. I don't know which. They are all related. 12 They are all East Indians. 13 Q. And this document is dated May 28th, 1998, for 14 the record. 15 A. Yes. 16 Q. Do you see that it is -- the facility is still 17 identified as the Tulare Street ARCO at the top? 18 A. Yes. 19 Q. Do you recognize the signature at the bottom of 20 the page? 21 A. Sandhu, no, I -- I -- I have never knew him or 22 had anything to do with him. 23 Q. Okay. If you look back at Exhibit 5, do you 24 know who Sandy Huff was or is? 25 A. No.</p>

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